

REMARKS

This Amendment and Reply is intended to be completely responsive to the Final Office Action dated December 21, 2006 and to the Advisory Action dated March 30, 2007. Applicants respectfully request reconsideration of the present Application in view of the forgoing amendments and the following remarks. Claims 1-5, 7 and 15 are cancelled without prejudice to further prosecution on the merits. Claims 6, 9, 10, 14, 17 and 18 are amended in this Amendment and Reply. New Claims 22-25 are added. No new matter is added. Accordingly, Claims 6, 8-14 and 16-25 will be pending in this Application upon the entry of this Amendment and Reply. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

Allowable Subject Matter

In Section 4 of the Detailed Action, the Examiner states that Claims 9 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for this notice of allowability. However, at this time, Applicants have chosen not to rewrite the above-referenced claims in independent form including all of the limitations of the base claims and any interfering claims. Rather, Applicants have amended the base claims (Claims 6 and 14) from which these claims depend to recite a combination of subject matter that Applicants believe is patentable in view of art of record.

Claim Rejections – 35 U.S.C. § 102(b)

In Section 2 of the Detailed Action, the Examiner rejects Claims 6-8, 12-16 and 20-21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,700,057 issued to De Filippo (“De Filippo”). In Section 3 of the Detailed Action, the Examiner rejects Claims 6-8, 10-12, 14-16 and 18-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,660,441 issued to Nagayasu et al. (“Nagayasu et al.”). These rejections should be withdrawn because the cited references fail to disclose, teach or suggest the claimed invention.

For example, both De Filippo and Nagayasu et al. fail to disclose an “automobile seat comprising a headrest” including, among other elements, “a skin at least partially covering [a] foaming material and defining a receiving port for receiving [a] horizontal portion of [a] stay portion therein . . . the receiving port is located at a position that is coaxial with the axis of the horizontal portion of the stay . . . the skin abuts the horizontal portion of the stay and the foaming material at the receiving port,” (emphasis added) as recited in independent Claim 6 (as amended).

De Filippo and Nagayasu et al. also fail to disclose a “headrest comprising a main body portion” including, among other elements, “a skin at least partially covering [a] foaming material and defining a receiving port for receiving [a] horizontal portion of [a] stay portion therein . . . the receiving port is located at a position that is coaxial with the axis of the horizontal portion of the stay . . . the skin abuts the horizontal portion of the stay and the foaming material at the receiving port,” (emphasis added) as recited in independent Claim 14 (as amended).

In rejecting Claims 6 and 14, the Examiner states that both De Filippo and Nagayasu et al. show a “skin.” While De Filippo does show a “fabric lining 14,” and Nagayasu et al. does disclose a “surface skin layer,” these features simply cover an outer surface of the headrest pillow or pad and do not define a “receiving port for receiving [a] horizontal portion of [a] stay portion therein . . . the receiving port [being] located at a position that is coaxial with the axis of the horizontal portion of the stay,” as recited in independent Claims 1 and 14 (as amended). Further, these features do not “abut the horizontal portion of the stay and the foaming material at the receiving port,” as further recited in independent Claims 1 and 14 (as amended).

The Examiner has cited to no teaching in the prior art of a receiving port that is defined by a skin and configured to receive a horizontal portion of a stay. The Examiner’s failure to provide a citation to the art of record is not surprising because the only evidence in the record of a teaching of such a feature is contained in the present Application. Of course, any reliance on the present Application would constitute inexpressible hindsight reasoning.

Applicants respectfully request withdrawal of the rejection of Claims 6 and 14 since at least one element of such claims is not disclosed, taught or suggested by either De Filippo or Nagayasu et al. Claims 8, 10-13, 16 and 18-21 depend variously from Claims 6 and 14 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 6, 8, 10-14, 16 and 18-21 is respectfully requested.

New Claims

Applicants have added new Claims 22-25 to provide claims of varying scope. Claim 22 is in independent form. Applicants believe new Claims 22-25 recite a combination of subject matter that is allowable in view of the prior art of record. Accordingly, Applicants respectfully request allowance of new Claims 22-25.

It should be noted that Applicants previously submitted different new Claims 22-25 for consideration in response to the non-final Office Action dated March 21, 2006. However, these claims were never recognized by the Examiner nor were they addressed in the Examiner's final Office Action dated December 21, 2006. On March 9, 2007, Applicants filed a request to have the final Office Action corrected since the Office Action was believed to be defective for failing to address these newly presented claims. The Examiner replied to this request by issuing an Advisory Action on March 30, 2007 rather than a corrected Office Action. During a teleconference between the Examiner and the undersigned attorney on April 20, 2007, the Examiner confirmed that the timing of the Advisory Action was proper. Applicants respectfully disagree. Regardless, Applicants are filing this Amendment and Reply along with a Request for Continued Examination (RCE) in an effort to advance the prosecution of the present Application. With respect to the listing of the claims in this Amendment and Reply, Applicants believe that "new" is the proper status identifier for Claims 22-25 rather than "currently amended" since it is the understanding of Applicants (based on the Examiner's statement in the Advisory Action and during of the teleconference on April 20, 2007) that Claims 22-25 have not yet been entered.

* * *

Claims 1-5, 7 and 15 have been canceled without prejudice to further projection on the merits. Claims 6, 9, 10, 14, 17 and 18 have been amended. New Claims 22-25 have been added. Applicants respectfully submit that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447.

If any extensions of time are needed for timely acceptance of papers submitted herewith, in addition to those already sought herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 06-1447.

The Examiner is encouraged to contact the undersigned by telephone if the Examiner believes that another telephone interview would advance the prosecution of the present

Application. Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 05/21/2007

By /Adam M. Gustafson/

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5652
Facsimile: (414) 297-4900

Adam M. Gustafson
Attorney for Applicant
Registration No. 54,601